



7/Election
C. Steptoe
10-8-03

Patent
Attorney's Docket No. 032498-010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)
)
Paul Luchinger) Group Art Unit: 2856
)
Application No.: 10/041,565) Examiner: Thomas Noland
)
Filed: January 10, 2002) Confirmation No.: 2742
)
For: CALIBRATION APPARATUS FOR)
MULTI-CHANNEL PIPETTES,)
INCLUDING A TRANSPORT)
DEVICE FOR RECEPTACLES)

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In an Official Action dated September 8, 2003, the Examiner has indicated that restriction to one of the following inventions is required under 35 U.S.C. § 121:

Group I - Claims 1-26; and

Group II - Claim 27-48.

Accordingly, Applicants provisionally elect Group I, the subject matter of Claims 1-26, with traverse. Applicants submit that the restriction requirement is in error. It is believed that in examining the non-elected claims, the Examiner will search the same classes of art as is required to search the invention of the elected claims, resulting in the same references being cited against both of the aforementioned groups of claims.

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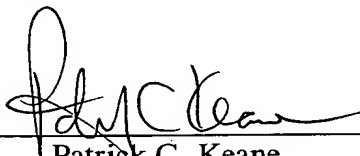
Thus, this restriction will not reduce the workload of the U.S. Patent and Trademark Office or simplify prosecution of the application. As set forth in M.P.E.P. Section 803, there are two criteria for a proper restriction requirement between patentably distinct inventions: (1) the inventions must be independent or distinct as claimed; and (2) there must be a **serious burden** on the Examiner if restriction is not required. This portion of the M.P.E.P. requires that if the search and examination of an entire application can be made without serious burden, the Examiner **must** examine it on the merits, even though it includes claims to distinct or independent inventions.

Accordingly, reconsideration and withdrawal of the aforementioned restriction requirement is respectfully requested. The provisional election is hereby made without prejudice to Applicants' right to file a divisional application or applications should the restriction becomes final.

Respectfully submitted,

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Date: October 3, 2003

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